

P. O. Box 437

PATRICK H. FENTON
ATTORNEY-AT-LAW
55 North Main Street
Cedar City, Utah

Phone 650

19 September 1952

State Engineer's Office
State Capitol Building
Salt Lake City, Utah

Dear Sir:

At Cedar City Council meeting last night a copy of letter to you from Theron Ashcroft, Water Commissioner under date of 17 September, 1952 was turned to me by the council and I was instructed to write to you a letter on this matter.

Under date of 2 September 1952 attorney Orville Isom of this city wrote to Cedar City Council demanding that Cedar City decrease its water use to conform to the amount of water in Coal Creek at that time and that he was instructing Mr. Ashcroft to distribute the water according to the Coal Creek Decree. Mr. Isom was representing some of the irrigation people.

Under date of 8 September 1952 I wrote Mr. Ashcroft as follows: "A letter from Mr. Orville Isom of this city to City Council and Cedar City Water Board under date of 2 September, 1952 has been referred to me. Said letter claims that the city use of water from Coal Creek is in excess of the share of the water that said city is entitled to under the terms of the Coal Creek decree.

If you find that this is the case and that the city is actually drawing more water than justified you are hereby requested to turn the water out of the city irrigation ditches and let this water go to the fields."

A copy of this letter was sent to Mr. Isom.

I was informed last night that the change of use application covers Chatterly spring as well as Cluff spring and that the present culinary use of Cedar City is in line with this use. I was also informed that the Coal Creek water in the pipe line is less than 600 gallons which is considerable less than the 2 C.F.S.

The instructions put out to Mr. Ashcroft were based on the premise "If he found that Cedar City was getting more than it should".

The city and the irrigation users have been trying to have a survey made and ascertain whether or not there is actually a use

204, C.M.
gm.

State Engineer's Office
State Capitol Building
Salt Lake City, Utah
19 September, 1952.

in excess of the decreed use or wrether this is a return to the age old chant of "They have it" when water gets scaree. The statements sent to Mr. Ashcroft were prefixed with a statement that if he found there was an over use of water. It seems as though that statement is being construed as a statement that there is an over use of water.

I think that all concerned will readily agree that if there is an overuse of water that the adjustment must be made out of the irrigation system and not out of the culinary system. Furthermore I believe that all concerned will concede that if necessary Cedar City should be entitled to put all its Coal Creek water into the pipe line.

There have been and at present there are being determined efforts to survey this situation and find out exactly what is the picture. If possible I am certain that all parties concerned would greatly appreciate any aid that might be possible out of your office in ascertaining the true picture and then, and not until this is found out, attempting to decide what should be done, and what can be done, to take care of any misuse or failures of this matter.

I would greatly appreciate any suggestions that you may have as to how this matter can be accomplished.

Very truly yours,

Patrick H. Fenton
Patrick H. Fenton
City Attorney

CC: Mr. Orville Isom
CC: Mr. Theron Ashcroft

